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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**C.W.P. No. 12356 of 2000**
Date of decision: 24.9.2007

**Balwinder Singh and another** **...Petitioners**

**Versus**

**State of Punjab and others** **...Respondents**

**CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL**

Present: Mr. J.S.Toor, Advocate for the petitioners

Mr. Parveen Chander Goel, Senior Deputy Advocate General, Punjab for the respondents.

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**RAJESH BINDAL, J.**

The petitioners, who have working as Workshop Superintendent in Government Polytechnics in Punjab have filed the present petition praying for reliefs :-

i) directing the respondents to grant the petitioners pay scale equal to the Head of the Department; or

ii) that atleast equal to that of Senior Lecturer in view of the recommendations made for the purpose and further that the post of the petitioners i.e. Workshop Superintendent being a promotional post of Foreman Instructor cannot carry a scale less than the feeder cadre post.

However at the time of hearing, learned counsel for the petitioners submitted that he is not pressing for the first relief and only pressing for the relief that the petitioners are entitled to the higher pay scale against that of the post of Foreman Instructor, which is a feeder cadre post.

Both posts in question, namely, Workshop Superintendent and Foreman Instructor are governed by Punjab, Department of Technical Education and Industrial Training ( Technical Education Wing) Group- A Service Rules, 2001 ( for short “the Rules”). In Appendix ‘B’ to the Rules, the posts of Workshop Superintendent and Foreman Instructor have been

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mentioned at Serial No. 26 and 27, which are as under:-

| ***Sr. No.*** | ***Desig-nation of post*** | ***Appoint-ed by*** ***Direct*** | ***Prom-otion*** | ***Trans-fer*** | ***Direct appoin-tment*** | ***Qualification and experience for appointment by*** ***Promotion*** | ***Re-ma-rks*** |
|---|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1 to 25 | xx | xx | xx | xx | xx | xx | xx |
| 26 | Work-Shop Super-ntendent | 50 % | 50 % | - | (i) First class Bachelor's degree in Mechanical Engineering/ Production Engineering/ Industrial Engineering or First Class Master decree in Mechanical Engineering/ Production Engineer/ Industrial Engineering (ii) Two years experience in a workshop/ Industrial concern of repute. | Ten years experience as a regular Foreman Instructor in Government Polytechnic. | |
| 27. | Foreman Instructor | If suitable candidate is not available departm-entally | 100 % | -- | First class Bachelor's degree or First class Masters Degree in Mechanical Engineering/ Production Engineering / Electrical Engineering/ Electronics and Two years experience in a workshop/ Industrial concern of repute. | Ten years experience as a regular Workshop Instructor in the relevant trade in a recognised technical institution. | |

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In Appendix 'A' to the Rules, the scales of pay of both the posts are mentioned at Serial No.26 and 27, which are as under:-

| ***Sr. No.*** | ***Designation of the post*** | ***Number of posts*** | | | ***Scale of pay*** |
|---|---|---|---|---|---|
| | | Permanent | Temporary | Total | |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1 to 25 | xx | xx | xx | xx | xx |
| 26. | Workshop Superintendent | 4 | 6 | 10 | -- |
| 27. | Foreman Instructor | -- | 33 | 33 | 7880-13,500 (Start 8000) |

Learned counsel for the petitioners further referred to the pleadings in paras 19 and 20 of the petition, which are to the following effect:-

"19. That the 3rd Punjab Pay Commission in its report made, in substance the following recommendations regarding the fixation of the pay is :-

(1) Head of the Department Rs. 2400-4000
(2) Senior Lecturer Rs. 2400-4000
(3) Workshop Superintendent Rs. 2200-4000
(4) Lecturer Rs. 2100-3700
(5) Foreman Instructor Rs. 2100-3700

20. That the 3rd Pay Commission in its report at page 295 para 88.6 made the following observations with regard to Workshop Superintendents.

88.6 The Foreman Instructor and Workshop Superintendent are in the scale of Rs. 940-1850. The Workshop Superintendent has demanded parity with the Head of the Department as the

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> recruitment to the post of the Workshop Superintendent is direct with degree in Engineering as the basic qualification. The demand of the Workshop Superintendent has some merit. We recommend that there should be no direct recruitment to the post of Workshop Superintendent. We recommend a scale of Rs. 2200-4000 for the Superintendent Workshop and for Foreman Instructor a pay scale of Rs. 2100-3700 is recommended.

In terms of the recommendations of the 3rd Punjab Pay Commission, the Workshop Superintendents were given the scale of Rs. 2200-4000 and Foreman Instructors were given the pay scale of Rs. 2100-3700. The 4th Pay Commission in its report recommended the pay scale of Rs. 10025-15100 for the post of Workshop Superintendent equating the same with the Senior Lecturers and for the post of Foreman Instructors pay scale of Rs. 7880-13500 ( with a start of Rs. 8000 ). While the recommendations in the case of Foreman Instructors were accepted, however, same was not accepted in case of the Workshop Superintendents, which created the glaring anomaly. Workshop Superintendents were granted the scale of merely Rs. 7220-11660 in terms of the schedule attached to the Punjab Civil Services (Revised Pay ) Rules, 1998**,** which provided for giving of scales on the basis of equation without mentioning any post. The scale of Rs. 7220-11660 was the revised scale of Rs. 2200-4000. The net result of pay revision after the 4th Pay Commission report was that the promotional post of Workshop Superintendent was in the scale of Rs. 7220-11660 whereas the feeder cadre post of Foreman Instructor in terms of the Rules was having the higher scale of Rs. 7880-13500. This is the basic grouse raised by the petitioners.

Learned counsel for the petitioners has also placed on record communication by the Director, Technical Education and Industrial Training Department, Punjab with regard to revision of pay scales of Workshop Superintendents working in Govt. Polytechnics and agenda items enclosed therewith for removal of anomaly in the pay scale of

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various posts including that of Workshop Superintendents, giving the details as to how the anomaly arose. The following facts extracted from the agenda items are relevant:-

"**C . Workshop Superintendent:-**

The post of Workshop Superintendent is filled from the post of Foreman Instructors by promotion. The Third Pay Commission has given the pay scale of 2200-4000 to Workshop Superintendents and 2100-3700 to Foreman Instructors w.e.f. 1.1.1986. On the recommendations of the Fourth Pay Commission, the Government gave to Workshop Superintendent Conversion scale of 7220-11660 w.e.f. 1.1.96 and 7880-13500 (start 8000) the higher scale to the post of Foreman Instructors w.e.f. 1.1.1996 from which the Workshop Superintendents are promoted. Due to this the anomaly in the pay scale of Workshop Superintendents was created. The case was taken up to remove this anomaly, but till today the anomaly of this post has not been removed.

The department has also recommended to the anomaly committee to give the pay scale of 10025-15100 to the post of Workshop Superintendents, because the post of Workshop Superintendent is filled from the post of Foreman Instructors (Pay scale 7880-13500 start 8000/- ) with 10 years of experience. To improve the Staff Structure All India Council of Technical Education set up Professor P.J. Madan Committee as President, has also recommended to equate the post of Workshop Superintendent equal to the post of Senior Lecutrer. In addition, the All India Council of Technical Education has also described the post of Workshop Superintendent equal to the post of Head of Department. In the light of above, it is recommended that the pay scale of 10025-15100 w.e.f. 1.1.1996 may be granted to the post of Workshop Superintendent."

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From a perusal of the above pleadings and various communications, it is evident that even the respondents had admitted that there is anomaly in the fixation of pay scales by the 4th Pay Commission. To buttress his arguments, learned counsel for the petitioners has relied upon the judgments in **Tamesh Kumar Dangi and others Vs. State of Haryana 2000 (3) Recent Services Judgements 269, Ranbir Singh and others Vs. State of Haryana and others 1997 (2) Recent Services Judgment 440, Har Kishan and another Vs. State of Punjab and another 1987 (5) Services Law Reporter 538 and Sunder Lal Jain Vs. State of Haryana 1995 (2) Recent Services Judgements 94.**

At the time of hearing, learned counsel for the respondents also did not dispute the factual possession stated by learned counsel for the petitioners, which is noticed above.

On a perusal of the rules, it is clearly evident that a Foreman Instructor with 10 years experience is eligible for promotion as Workshop Superintendent. Further, it is evident that 3rd Pay Commission had granted the sale of Rs. 2100-3700/- to the Foreman Instructors whereas the Workshop Superintendents were granted the scale of Rs. 2200-4000. However, at the time of revision of pay scale by 4th Pay Commission, Workshop Superintendents were granted the pay scale of Rs. 7220-11660 as against scale of Rs. 7880-13600 ( with a start of Rs. 8000) granted to the Foreman Instructors. Still further once the respondents are themselves admitting and recommending the case for removal of anomaly, it is strange to notice that till date no final decision has been taken by them on the issue whereas facts of the case showing the anomaly are plain and simple. It would be in fitness of things that anomaly is removed at the earliest to remove heart burning amongst the employees. As is settled that the promotional post should have scale higher than the feeder cadre post, action of the respondents can neither be justified nor even the delay in removal of anomaly.

Accordingly, it is directed that respondents shall remove the anomaly in the scale of petitioners, who are working as Workshop Superintendents within a period of three months from the date of receipt of a copy of this order and pay the arrears to them within two months of the

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passing of the order removing the anomaly.

The writ petition is, accordingly, allowed with costs which are quantified at Rs. 2500/-

**September 24, 2007** **(Rajesh Bindal)**
**Pka** **Judge**